

Virginia Lawmakers Should Pass *Citizens United* Trigger Law

Challenging the Supreme Court's mistaken *Citizens United* ruling will help spur legal change and curb the influence of big money in state politics.



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February 27, 2026

Money in Politics

Virginia could be one of the first states to deploy an underutilized tool in the road toward undoing the Supreme Court's erroneous campaign finance rulings. Through a series of decisions — most famously in [Citizens United](#) ^[link-1] — the Court warped the meaning of the First Amendment, flooding our elections with cash and empowering the wealthy few. This

session, the Virginia General Assembly has the opportunity to oppose those misguided rulings and lay the groundwork for reform.

The Supreme Court's string of flawed campaign finance rulings started with [Buckley v. Valeo](#) ^[link-2] in 1976 and continued in other cases like *Citizens United* in 2010 and [McCutcheon v. Federal Election Commission](#) ^[link-3] in 2014. In

these decisions, the Court turned the First Amendment on its head. The amendment was intended to prevent the resurgence of aristocracy by ensuring that every member of the political community can participate in self-government as equals. But the Court bastardized its protections to insulate wealthy donors and allow them to spend unlimited money, tilting political influence in their favor.

Since *Citizens United*, super PACs and wealthy donors have dominated the funding and even running of campaigns. In the 2024 election, just 10 individuals spent more than [\\$481 million](#) [\[link-4\]](#) to support President Donald Trump — nearly half of all the money raised to support his candidacy. Vice President Kamala Harris also relied heavily on megadonors, as well as record spending by [dark money groups](#) [\[link-5\]](#) that do not disclose their donors.

These trends are not unique to presidential elections. Spending in congressional races has [ballooned](#) [\[link-6\]](#) since *Citizens United*, and even state and local campaigns have become more expensive. Last year, Virginia's gubernatorial race broke spending records at [\\$105 million](#) [\[link-7\]](#), making it the second most expensive race in state history. The attorney general race, too, cost a staggering \$40 million, breaking national spending records. The main reason for this increased spending? Massive spending from megadonors and outside groups from across the country.

Despite the explosion of money in politics, the Court's majority has shown little interest in revisiting its past decisions. But in the state that pioneered the model for the First Amendment, with 1786's [Statute on Religious Freedom](#) [\[link-8\]](#), lawmakers can restore the original

intent of the amendment and establish a new blueprint for campaign finance reform.

The General Assembly is considering a bill, [S.B. 688](#) [\[link-9\]](#), that would begin to push back on the Supreme Court's manipulation of the First Amendment. The measure would impose reasonable limits on political spending and curb the cost of elections. These limits would be quickly struck down under the Supreme Court's mistaken interpretation of the First Amendment, except for one thing: the bill is a "trigger law." This means that the law will not take effect until *Citizens United* is overturned, so courts can't strike it down. Until then, the bill would allow Virginia to tell the Court that its understanding of the First Amendment is wrong.

History teaches us how effective this strategy can be. As far back as 1991, antiabortion activists identified trigger laws as part of an

"[incremental strategy](#) [\[link-10\]](#)" to chip away at [Roe v. Wade](#) [\[link-11\]](#). By the time of the [Dobbs](#) [\[link-12\]](#) decision in 2022, which ended federal protections for abortion, [13 states](#) [\[link-13\]](#) had trigger laws on the books — intentionally unconstitutional restrictions or prohibitions on abortion that sprang into effect once *Roe* was struck down. Antiabortion strategists [said](#) [\[link-14\]](#) that these trigger laws "creat[ed] an environment that reveals a growing political will to" overturn *Roe*. And in *Dobbs* itself, the Supreme Court [cited](#) [\[link-15\]](#) the existence of state laws challenging *Roe* as a reason to overturn that precedent.

Trigger laws are just one avenue for restoring some sanity to our campaign finance laws. In the meantime, states can and should limit how much individuals can give directly to candidates to prevent the appearance or reality of

corruption, establish [small-donor matching programs](#) [link-16] to amplify the voices of constituents across income levels, and enforce strong disclosure rules so voters know who is paying to influence policy decisions. Combined with trigger laws, these tools would allow

lawmakers to improve elections now while building a movement for sweeping legal change in the future.

Given its history with the First Amendment, that momentum should start with Virginia passing [S.B. 688](#) [link-17].

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Links

link-1: Citizens United <https://www.brennancenter.org/our-work/research-reports/citizens-united-explained>

link-2: Buckley v. Valeo <https://www.fec.gov/legal-resources/court-cases/buckley-v-valeo/>

link-3: McCutcheon v. Federal Election Commission <https://www.brennancenter.org/our-work/court-cases/mccutcheon-v-fec>

link-4: \$481 million <https://www.brennancenter.org/our-work/research-reports/fifteen-years-later-citizens-united-defined-2024-election>

link-5: dark money groups <https://www.brennancenter.org/our-work/research-reports/fifteen-years-later-citizens-united-defined-2024-election>

link-6: ballooned <https://www.brennancenter.org/our-work/research-reports/dark-money-hit-record-high-19-billion-2024-federal-races>

link-7: \$105 million <https://www.brennancenter.org/our-work/analysis-opinion/odd-year-elections-break-spending-records>

link-8: Statute on Religious Freedom <https://virginiahistory.org/learn/thomas-jefferson-and-virginia-statute-religious-freedom>

link-9: S.B. 688 <https://lis.virginia.gov/bill-details/20261/SB688>

link-10: incremental strategy <https://digitalcommons.law.byu.edu/cgi/viewcontent.cgi?article=1713&context=lawreview>

link-11: Roe v. Wade <https://www.brennancenter.org/our-work/research-reports/roe-v-wade-and-supreme-court-abortion-cases#position-17747>

link-12: Dobbs <https://www.scotusblog.com/cases/case-files/dobbs-v-jackson-womens-health-organization/>

link-13: 13 states <https://www.cnn.com/2022/05/03/us/state-abortion-trigger-laws-roe-v-wade-overturned>

link-14: said <https://www.nationalreview.com/2006/06/eroding-roe-dorinda-c-bordlee-nikolas-t-nikas/>

link-15: cited https://www.supremecourt.gov/opinions/21pdf/19-1392_6j37.pdf?inline=1

link-16: small-donor matching programs <https://www.brennancenter.org/our-work/research-reports/new-york-states-public-campaign-financing-program-empowers-constituent>

link-17: S.B. 688 <https://lis.virginia.gov/bill-details/20261/SB688>